IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 582 (MS) OF 2006

1. Farid Ahmad,
   S/o Shri Mohd. Ahesan,
   R/o Gali No. 2 Mahmood Nagar,
   Muzaffarnagar,
   District-Muzaffarnagar. (U.P.)
2. Taj Jiya, S/o Shri Jiyauddin,
   R/o Mohalla-Tusana Road,
   Budhana, Tehsil-Budhana,
   District-Muzaffarnagar. .....Petitioner.

Versus

1. Javed Ahmad, S/o Khalil Khan,
   R/o Liyakat, Neta Wali Band Gali,
   Badheri Road, Mahood Nagar,
   Muzaffarnagar,
   Through Rao Sadakat Ali, S/o Sarafat Ali.
2. Mustakim, S/o Bundu Khan,
   Pargana & Tehsil-Roorkee,
   District-Haridwar.
3. Satish Yadav, S/o Unknown,
   R/o Ganeshpur, Near Gana Society,
   Railway Road, Roorkee,
   District-Haridwar.
4. In-charge presiding Officer,
   Civil Judge (J.D.), Roorkee,
   District-Haridwar. .....Respondents.

Dated: 18.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Rajendra Singh, Advocate for the petitioner and Standing Counsel for the respondent no. 4. Both the parties have agreed that let the matter be finally disposed of.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondent no. 4 to hear and dispose of the application 6C2 mved by the petitioners under Order 39 Rule 1 and 2 read with Section 151 of C.P.C. in original suit No. 91 of 2006 Farid &others Vs. Javed & others

pending in the regular Court of Civil Jude (J.D.), Roorkee expeditiously.

Briefly stated, the petitioners have filed a Civil Suit No. 91 of 2006 Farid & others Vs. Javed and others in the court of Civil Judge (J.D.), Roorkee, District-Haridwar on 20.04.2006 for permanent injunction along with application 6C2 supported by affidavit 7C2 under Order 39 Rule 1 and 2 read with Section 151 C.P.C. and the suit was presented before the In-charge Presiding Officer (Add. Civil Judge, Junior Division), Roorkee) as the court of Civil Judge, Junior Division, Roorkee being vacant and the In-chare Presiding Officer/respondent no. 4 issued the notices to the respondent nos. 1 to 3 fixing the date as 01.05.2005 for objection and hearing on the application 6C2 under Order 39 Rule 1 and 2 read with Section 151 of C.P.C.

However, the court below is directed to expedite the disposal of the application 6C2 under Order 39, Rule 1 and 2 read with Section 151 C.P.C. within a period of four months from the date of presentation of the certified copy of the order.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

18.05.2006
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